

LEGISLATIVE COUNCIL BRIEF

Hong Kong Airport (Control of Obstructions) Ordinance (Cap 301)

Hong Kong Airport (Control of Obstructions) (Exemption)(Amendment) Order 2002

BACKGROUND AND ARGUMENT

The Hong Kong Airport (Control of Obstructions) Ordinance (Chapter 301) (the Ordinance) provides for, inter alia, the restriction of heights of buildings in specified areas for the interest of aviation safety. Pursuant to section 3(1AA) of the Ordinance, the Secretary for Planning and Lands (the Secretary) may, on the advice of the Director-General of Civil Aviation, by order prescribe the areas within which no building shall exceed the height specified in the order. In conjunction with the opening of the Hong Kong International Airport at Chek Lap Kok, the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (the Order) was made pursuant to inter alia, section 3(1AA) of the Ordinance and came into operation on 20 June 1997 to prescribe the airport height restriction (AHR).

2. Section 3(3A) of the Ordinance provides that the Secretary may, on the advice of the Director-General of Civil Aviation, by order grant an exemption from the operation of an order made pursuant to section 3(1AA) of the Ordinance subject to such terms and conditions required for or related to the safety of aircraft as he may impose. Two applications for exemption from the AHR have been received. They are listed in the following paragraphs.

SmarTone Mobile Communications Limited

3. The SmarTone Mobile Communications Limited has applied for an exemption from the AHR for the construction of an integrated mobile phone base station (Station) within the allocated boundary of the Twisk Management Centre at Tai Lam Country Park.

4. The proposed Station is to improve mobile phone coverage in country parks as recommended by an Inter-departmental Investigation Team after the Pat Sin Leng hill fire tragedy in February 1996. The proposed Station is a joint development by all the licensed mobile phone operators for the purpose of improving the mobile phone coverage in the area of Tsuen Kam Au, lying within both Tai Lam Country Park and Tai Mo Shan Country Park.

5. The finished level of the proposed Station would be at a height of about 491mPD which exceeds the AHR of 337mPD prescribed under the Order for the Twisk Management Centre in Tai Lam Country Park.

6. The Director-General of Civil Aviation has been consulted and has no objection to the granting of an exemption from the operation of the Order for the proposed Station. As the proposed Station lies within the Tai Lam Country Park, written consent from the Director of Agriculture, Fisheries and Conservation has also been secured. The Director-General of Telecommunications, the Director of Lands, the Director of Planning, and the Director of Buildings have no objection to the proposal.

Hong Kong Youth Hostels Association

7. The Hong Kong Youth Hostels Association has applied for an exemption from the AHR for the construction of some ancillary structures, namely fire services water tank and associated pump house, fire escape staircase at the Boys' Dormitory and handrails around the barbeque area at Sze Lok Yuen, Tai Mo Shan held under Government Land Licence No. TW 9546. These structures are required to improve the safety of the

existing buildings in compliance with the licensing conditions under the Clubs (Safety of Premises) Ordinance (Cap. 376).

8. The finished level of these ancillary structures would be at heights of about 637 to 646mPD which exceed the AHR of 353mPD prescribed under the Order for the area of Sze Lok Yuen, exemption from the operation of the Order is therefore required.

9. The Director-General of Civil Aviation has been consulted and has no objection to the granting of an exemption from the operation of the AHR for the proposed ancillary structures. The Director of Lands, the Director of Planning, and the Director of Buildings have no objection to the proposal.

THE PROPOSED EXEMPTION AMENDMENT ORDER

10. The Hong Kong Airport (Control of Obstructions) (Exemption) Order (cap. 301 sub. leg.) is amended to add the following two portions of land that are exempt from the operation of the Order. It also specifies the new height restrictions of the buildings which may be erected on the two exempted areas:

- (a) All that portion of land shown coloured pink on Plan No. TWM 2959-AHE signed by the Secretary for Planning and Lands and deposited at the Tsuen Wan New Territories Land Registry subject to a height restriction of 491mPD.
- (b) All those portions of land shown coloured pink and marked with A, B and C on Plan No. TWM 2996-AHE signed by the Secretary for Planning and Lands and deposited at the Tsuen Wan New Territories Land Registry subject to a height restriction of 645mPD, 637mPD and 646mPD for Portion A, B and C respectively.

LEGISLATIVE TIMETABLE

11. The proposed Exemption Amendment Order will be published in the Gazette on 12 April 2002 and tabled in the Legislative Council for negative vetting on 17 April 2002.

BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the proposed Exemption Amendment Order is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the proposed Exemption Amendment Order has no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

14. There are no financial or staffing implications arising from the proposed Exemption Amendment Order.

PUBLIC CONSULTATION AND PUBLICITY

15. Since the proposed Exemption Amendment Order is unlikely to attract any public interest, neither consultation with the public nor publicity is considered necessary.

ENQUIRIES

16. For enquiries, please contact Mr. Frank Chan, Chief Assistant Secretary for Planning and Lands at telephone number 2848 2700.

Planning and Lands Bureau

April 2002

**HONG KONG AIRPORT (CONTROL OF
OBSTRUCTIONS)(EXEMPTION)(AMENDMENT) ORDER
2002**

(Made under section 3(3A) of the Hong Kong Airport (Control of
Obstructions) Ordinance (Cap. 301) on the advice of the
Director-General of Civil Aviation)

1. Exemption from height restriction

The Schedule to the Hong Kong Airport (Control of Obstructions)(Exemption) Order (Cap. 301 sub. leg.) is amended by adding –

"3. All that portion of land shown coloured 491 m
pink on Plan No. TWM 2959-AHE signed
by the Secretary for Planning and Lands
and deposited at the Tsuen Wan New
Territories Land Registry.

4. All those portions of land shown coloured
pink and marked with A, B and C on Plan
No. TWM 2996-AHE signed by the
Secretary for Planning and Lands and
deposited at the Tsuen Wan New
Territories Land Registry –

Portion A	645 m
Portion B	637 m
Portion C	646 m".

Secretary for Planning and Lands

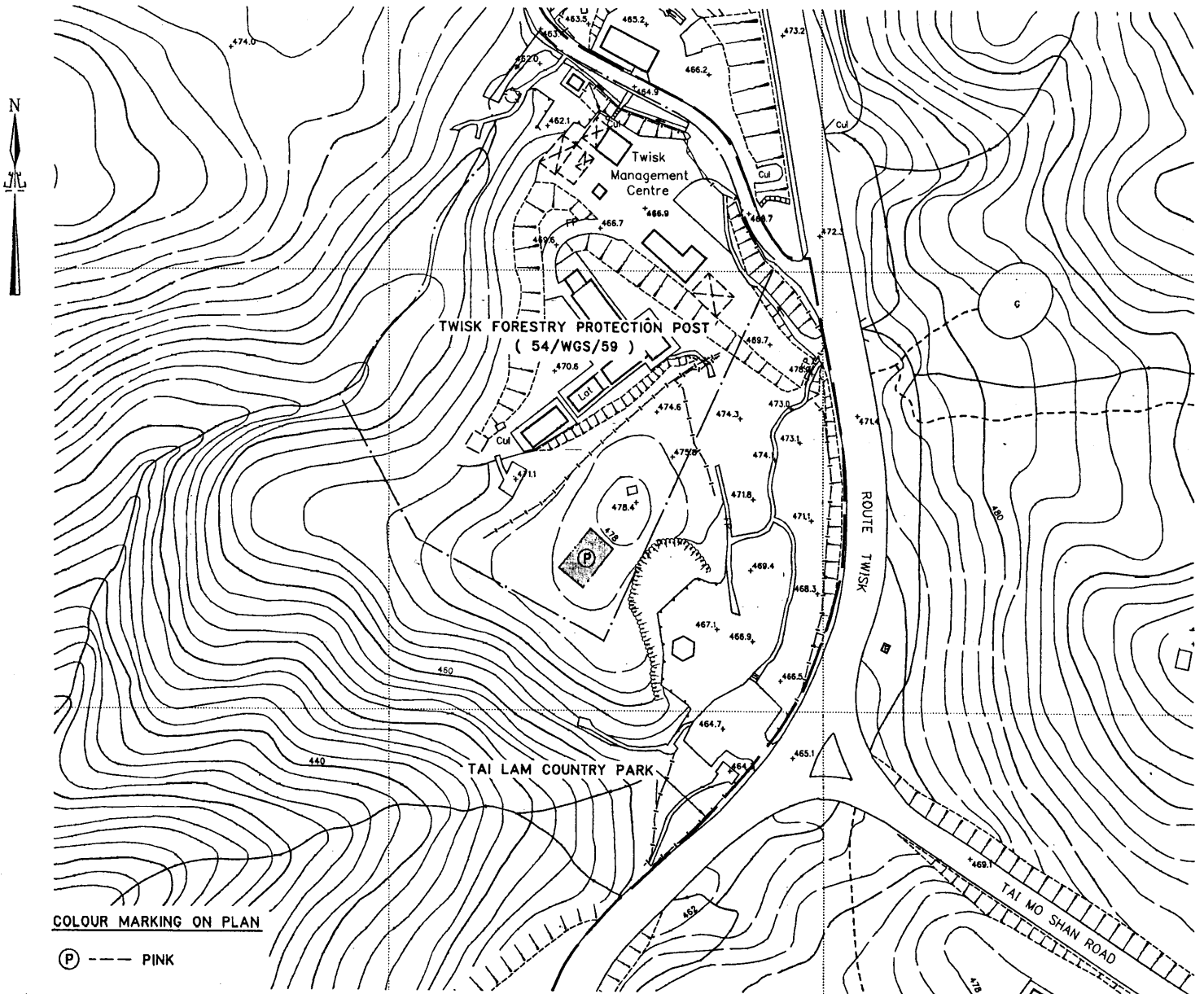
2002

Explanatory Note

This Order amends the Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg.) to add 2 portions of land that are exempt from the operation of the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Cap. 301 sub. leg.) ("the Order") which imposes height restrictions on buildings within areas covered by the Order. It also specifies the new height restrictions of the buildings which may be erected on the 2 exempted areas.

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) ORDINANCE (CAP. 301)

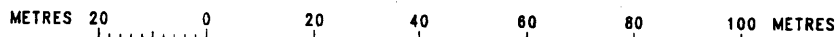
PLAN OF TWISK FORESTRY PROTECTION POST (PORTION)



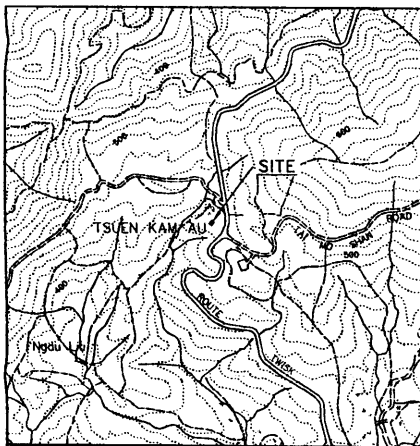
COLOUR MARKING ON PLAN

(P) --- PINK

SCALE 1 : 1000



LOCATION



SCALE 1 : 20000



Within this area no building shall be erected above a height of 491mPD

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) ORDINANCE

This is the plan numbered TWM2959-AHE referred to in the Hong Kong Airport (Control of Obstructions) Exemption Order signed by the Secretary for Planning and Lands and deposited at the Tsuen Wan New Territories Land Registry.

3/1/02

Date

Secretary for Planning and Lands

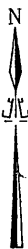
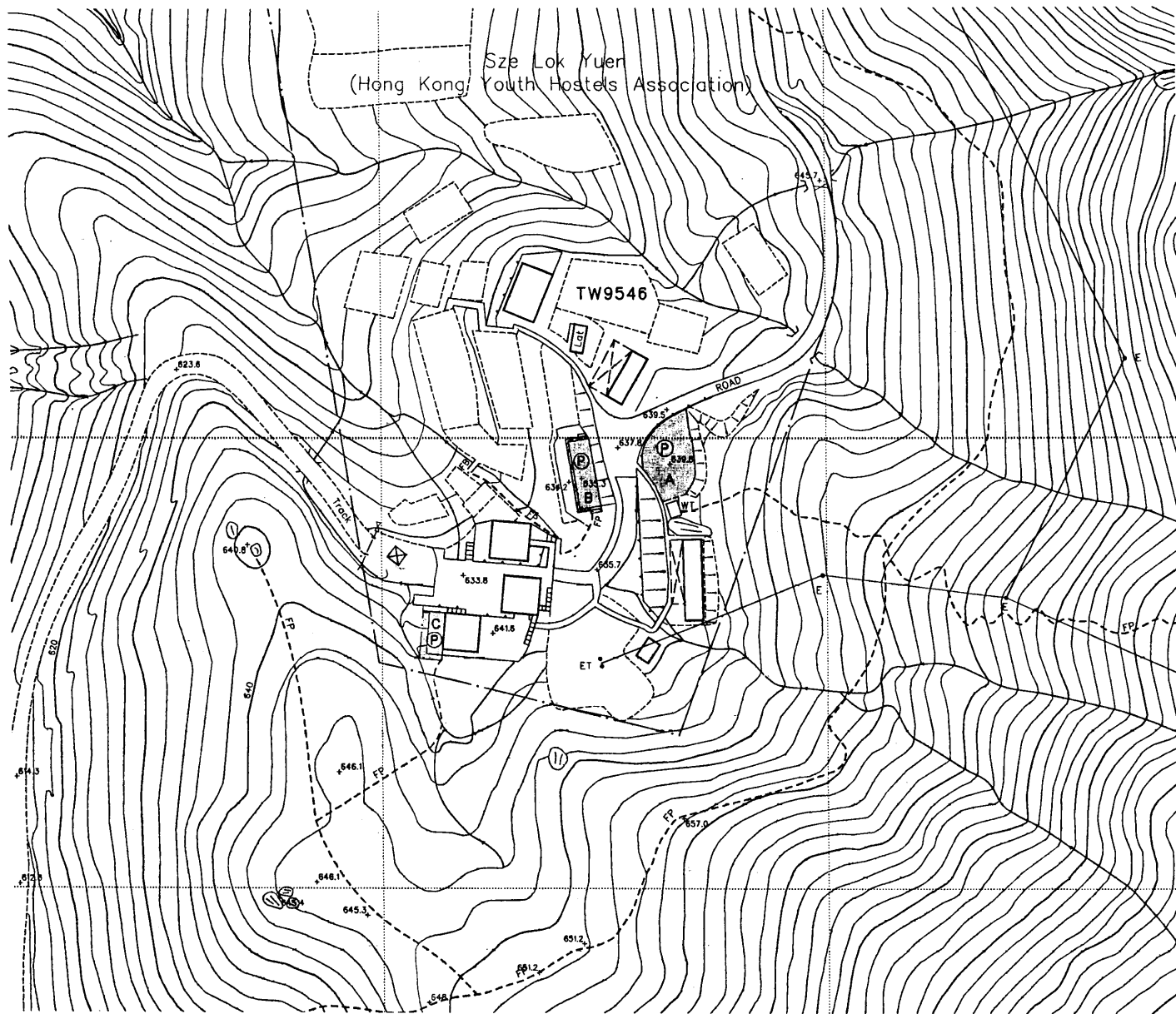
Planning and Lands Bureau
Government Secretariat

Plan Prepared by District Survey Office, Tsuen Wan
Lands Department

File Ref. DLO/TW STT1254
Survey Sheet No. 6-SE-5A
Plan No. TWM2959-AHE

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) ORDINANCE (CAP. 301)

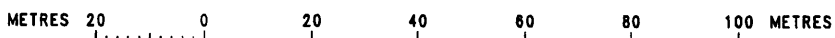
PLAN OF GOVERNMENT LAND LICENCE No. TW9546 (PORTIONS)



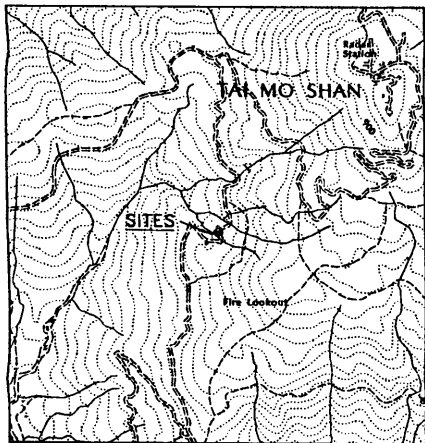
COLOUR MARKING ON PLAN

(P) --- PINK

SCALE 1 : 1000



LOCATION



SCALE 1 : 20000

- A** Within this area no structure shall be erected above a height of 645mPD
- B** Within this area no structure shall be erected above a height of 637mPD
- C** Within this area no structure shall be erected above a height of 646mPD

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) ORDINANCE

This is the plan numbered TWM2996-AHE referred to in the Hong Kong Airport (Control of Obstructions) Exemption Order signed by the Secretary for Planning and Lands and deposited at the Tsuen Wan New Territories Land Registry.

3 17 02

Date

[Signature]
Secretary for Planning and Lands

Planning and Lands Bureau
Government Secretariat

Plan Prepared by District Survey Office, Tsuen Wan
Lands Department

File Ref. DLO/TW9546
Survey Sheet No. 7-SW-1A
Plan No. TWM2996-AHE